

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA

11 JUN 21 PM 3:38

OFFICE OF THE CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DANIA HERMOSILLO,
RAFAEL HERMOSILLO,

Defendants.

8:10CR304

8:10CR305

**PRELIMINARY ORDER
OF FORFEITURE**

NOW ON THIS 21st day of June, 2011, this matter comes on before the

Court upon the United States' Motion for Issuance of Preliminary Order of Forfeiture (Filing No.

6D and 6E). The Court reviews the record in this case and, being duly advised in the premises, finds as follows:

1. The Defendant, Rafael Hermosillo (hereinafter referred to as "Rafael"), has entered into a Plea Agreement, whereby he has agreed to plead guilty to Counts I and III of a Superseding Indictment. Count I charged Rafael with the distribution of methamphetamine, its salts, isomers, and salts of its isomers, a Schedule II controlled substance, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1). Count III charged Rafael with conspiracy to commit structuring in violation of 18 U.S.C. § 371. The Defendant, Dania Hermosillo (hereinafter referred to as "Dania") has entered into a Plea Agreement whereby she has agreed to plead guilty to Count I of a Second Superseding Indictment. Count I charged Dania with conspiracy to commit structuring in violation of 18 U.S.C. § 371.

2. Both charging instruments contained identical forfeiture allegations which sought the forfeiture, pursuant to 18 U.S.C. § 984 and 31 U.S.C. § 5317(c), of the following property:

- a. \$35,908.00 seized on April 21, 2010 from account number 110223492 at First National Bank.

b. The business known as All Cars and Trucks, located at 7016 Railroad Avenue, Bellevue, Sarpy County, Nebraska, including all its assets and inventory, and including the real estate on which it is situated, legally described as A tract of land consisting of part of Lot 12 ½ and a portion of Lot 12, in Albright's Choice, a Subdivision, located in the Northeast Quarter of Section 15, Township 14 North, Range 13, East of the 6th P.M., Sarpy County, Nebraska, described as follows: Commencing at the Northeast corner of Lot 12 ½ West of Railroad Avenue in Albright's Choice; thence Southeasterly along the Easterly line of Lots 12 ½ and 12, a distance of 167.7 feet; thence Southwesterly with an interior angle of 69 degrees 47 minutes, a distance of 255.98 feet to a point on the Westerly line of Lot 12; then Northwesterly along the Westerly line of Lots 12 and 12 ½, a distance of 210.8 feet to the Northwest corner of Lot 12 ½; then Easterly along the North line of Lot 12 ½, a distance of 269.2 feet to the point of beginning, together with all fixtures and appurtenances thereon.

3. Both Defendants also agreed to admit that part of the forfeiture allegation in their respective charging instruments which references the business known as All Cars and Trucks, located at 7016 Railroad Avenue, Bellevue, Sarpy County, Nebraska, including all its assets and inventory, and including the real property on which it is situated. Correspondingly, the Defendants have agreed to vacate said property by close of business on June 21, 2011. Both Defendants understand and acknowledge the United States will take exclusive possession of and assume control of said property by close of business on June 21, 2011, in conformance with their plea agreements. Both Defendants will take no action to interfere with the United States' assumption of control, and will take all reasonable measures to accomplish the transfer of All Cars and Trucks' assets and inventory to the United States.

4. By way of the parties' plea agreements, the United States has agreed it will move to dismiss that part of the forfeiture allegation in both charging instruments which references \$35,908.00 seized on April 21, 2010, from account number 110223492 at First National Bank. The

United States has agreed it will return this sum, without interest, to Dania by delivery to the trust account of her attorney, Michael P. Meckna. Rafael consents to this delivery, and will take no action to interfere with or prevent the same.

5. By virtue of said pleas of guilty, the Defendants forfeit their interest in business known as All Cars and Trucks, located at 7016 Railroad Avenue, Bellevue, Sarpy County, Nebraska, including all its assets and inventory, and including the real property on which it is situated, and the United States should be entitled to possession of said property, pursuant to 21 U.S.C., § 853.

6. The United States' Motion for Issuance of Preliminary Order of Forfeiture should be sustained.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

A. The United States' Motion for Issuance of Preliminary Order of Forfeiture is hereby sustained.

B. Based upon the forfeiture allegation in the charging instruments and the Defendants' pleas of guilty, the United States is hereby authorized to seize the business known as All Cars and Trucks, located at 7016 Railroad Avenue, Bellevue, Sarpy County, Nebraska, including all its assets and inventory, and including the real property on which it is situated.

C. The Defendants' interest in the business known as All Cars and Trucks, located at 7016 Railroad Avenue, Bellevue, Sarpy County, Nebraska, including all its assets and inventory, and including the real property on which it is situated, is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of 21 U.S.C., § 853(n)(1).

D. The aforementioned real and personal property is to be held by the United States in its secure custody and control.

E. The United States is directed to return the \$35,908.00 seized on April 21, 2010, from account number 110223492 at First National Bank, without interest, to Dania by delivery to the trust account of her attorney, Michael P. Meckna.

F. Pursuant to 21 U.S.C., § 853(n)(1), the United States forthwith shall publish for at least thirty consecutive days on an official internet government forfeiture site (www.forfeiture.gov) notice of this Order, Notice of Publication evidencing the United States' intent to dispose of the property in such manner as the Attorney General may direct, and notice that any person, other than the Defendant, having or claiming a legal interest in any of the subject property must file a Petition with the court within thirty days of the final publication of notice or of receipt of actual notice, whichever is earlier.

G. Said published notice shall state the Petition referred to in Paragraph F, above, shall be for a hearing to adjudicate the validity of the Petitioner's alleged interest in the property, shall be signed by the Petitioner under penalty of perjury, and shall set forth the nature and extent of the Petitioner's right, title or interest in the subject property and any additional facts supporting the Petitioner's claim and the relief sought.

H. The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property subject to this Order as a substitute for published notice as to those persons so notified.

I. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C., § 853(n), in which all interests will be addressed.

ORDERED this 21st day of June, 2011.

BY THE COURT:

A handwritten signature in cursive script, reading "Lyle E. Strom", written over a horizontal line.

LYLE E. STROM, ~~CHIEF~~ JUDGE
UNITED STATES DISTRICT COURT